

**SUPREME COURT MINUTES  
THURSDAY, MARCH 16, 2000  
SAN FRANCISCO, CALIFORNIA**

S074951      The People, Plaintiff and Respondent,

v.

Aldo Hernandez, Defendant and Appellant.

[W]e reverse the judgment of the Court of Appeal and remand the cause to that court with directions to remand the matter to the superior court for further proceedings consistent with this opinion.

Mosk, J.

We Concur:

George, C.J.

Kennard, J.

Baxter, J.

Werdegar, J.

Chin, J.

Concurring Opinion by Brown, J.

S077861      Wendy Fox et al., Plaintiffs and Appellants,

v.

Richard J. Kramer et al., Defendants and Respondents.

We affirm the judgment of the Court of Appeal.

Mosk, J.

We Concur:

George, C.J.

Kennard, J.

Baxter, J.

Werdegar, J.

Chin, J.

Brown, J.

S071835      In re Larry H. Roberts

on

Habeas Corpus

By the Court:

In the matter of Larry H. Roberts on Habeas Corpus, S071835 (related to People v. Roberts (Solano County Super. Ct. case No. C-15253)), good cause appearing, it is ordered that the Presiding Judge of the Solano County Superior Court select a judge of that court to sit as a referee in this proceeding, and that the court promptly provide this court with the name of the referee selected.

After appointment by this court, the referee shall hold, as soon as possible following notice to the parties, an evidentiary hearing to make findings on the following questions:

1. What, if any, testimony did the prosecutor at petitioner's trial induce, or attempt to induce, from inmate witnesses? And if any, from which inmates? Did the inmate witnesses discuss their testimony among themselves before trial? Did the inmate witnesses' trial testimony vary from what they actually saw or heard? And specifically in addition (but without necessarily limiting the findings of fact to answering the following questions):

a. Did Raybon Long hear petitioner discuss Gardner's stabbing before it occurred? Did Long see petitioner stab Gardner? Did Long see petitioner run to the third floor after stabbing Gardner?

b. Did Richard Yacotis hear petitioner discussing the stabbing afterward? What is the truth of the claims made in Yacotis's purported August 12, 1982, letter to defense counsel?

c. Did the trial testimony of Ryland T. Cade, Robert Hayes, or David Calvin, Jr., vary from what they actually saw or heard?

d. Did Leslie H. Rooks see petitioner carrying a knife just before the stabbing? After the stabbing, when and where did Rooks first see petitioner?

e. Were attempts made to persuade George Frederick Payne to testify falsely at the trial?

2. What evidence was available to defense counsel that the east grille gate on the third floor at the California Medical Facility, Vacaville, was locked or open at the time of the stabbing? What additional evidence, if any, would further investigation have produced on this point? What circumstances would have weighed against investigating the existence of or presenting any such evidence? What evidence rebutting any such evidence would have

been available to the prosecution following its own investigation?  
Was the east grille gate open or locked at the time of the stabbing?  
If it was locked, could petitioner nonetheless have gone up the stairs  
and to his cell immediately after the stabbing?

As soon as the referee has made findings pursuant to this order,  
he or she shall transmit the record of the hearing, including all  
exhibits thereto, and his or her findings to this court.

S065501 Rochelle C. Linder, Appellant

v.

Thrifty Oil Company, Respondent

Appellant's request to take judicial notice, filed April 16, 1998, is  
granted.

Appellant's request to take judicial notice, filed October 27,  
1998, is denied.

S014664 People, Respondent

v.

Mario Lewis Gray, Appellant

On application of respondent and good cause appearing, it is  
ordered that the time to serve and file respondent's brief is extended  
to and including April 12, 2000.

S025519 People, Respondent

v.

Colin Raker Dickey, Appellant

On application of appellant and good cause appearing, it is  
ordered that the time to serve and file appellant's opening brief is  
extended to and including April 14, 2000.

S034110 People, Respondent

v.

Mark Christopher Crew, Appellant

On application of appellant and good cause appearing, it is  
ordered that the time to serve and file appellant's opening brief is  
extended to and including May 19, 2000.

S077350 Smith A. Ketchum, III, Appellant

v.

John M. Moses, Respondent

On application of respondent and good cause appearing, it is ordered that the time to serve and file respondent's consolidated response to briefs of amicus curiae is extended to and including April 3, 2000.

S056842 People, Respondent

v.

John Alexander Riccardi, Appellant

Upon request of appellant for appointment of counsel, Carla J. Johnson is hereby appointed to represent appellant John Alexander Riccardi for the direct appeal in the above automatic appeal now pending in this court.

S083619 People, Respondent

v.

Eugene Matthews, Jr., Appellant

Upon request of appellant for appointment of counsel, Patrick M. Ford is hereby appointed to represent appellant on his appeal now pending in this court.

S084020 People, Respondent

v.

Glen Cox, Appellant

Upon request of appellant for appointment of counsel, Lynne McGinnis is hereby appointed to represent appellant on his appeal now pending in this court.

S033998 In the Matter of Suspension of Attorneys

Pursuant to Rule 962, California Rules of Court

**Michael James Kissinger, #91584**, was listed by the State Department of Social Services as being in arrears in payment of support obligations. He later obtained the necessary release from the appropriate District Attorney. He has subsequently been identified by the Department of Social Services as again being delinquent. Pursuant to Rule 962(a) of the California Rules of Court, IT IS

HEREBY ORDERED that **Michael James Kissinger**, be suspended from membership in the State Bar of California and from the rights and privileges of an attorney to act from and after **April 17, 2000**.

IT IS FURTHER ORDERED that upon receipt by the State Bar of California of a release issued by the appropriate District Attorney pursuant to subdivision (1) of section 11350.6 of the Welfare and Institutions Code, the State Bar shall certify the fact of the receipt of such release to the Clerk of the Supreme Court and the suspension shall be terminated by order of this Court and he shall be fully restored to membership in the State Bar of California, and to all rights and privileges, duties and responsibilities incident thereto;

IT IS FURTHER ORDERED that until restored as above provided, he shall be precluded from practicing as an attorney at law, or an attorney or agent of another in and before all the courts, commissions and tribunals of this state, and from holding himself out to the public as an attorney or counsel at law.

S084970 In re **Murray Palitz** on Discipline

It is ordered that **Murray Palitz, State Bar No. 67062** be suspended from the practice of law for one year, that execution of suspension be stayed, and that he be placed on probation for two years subject to the conditions of probation, including 60 days actual suspension recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed December 6, 1999. It is further ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar pursuant to Business and Professions Code section 6086.10 and payable in accordance with Business and Professions Code section 6140.7.

S084981 In re **John Patrick Lether** on Discipline

It is ordered that **John Patrick Lether, State Bar No. 49595**, be suspended from the practice of law for two years and until he has shown proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for

Professional Misconduct, that execution of suspension be stayed, and that he be placed on probation for three years subject to the conditions of probation, including 30 days actual suspension, recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed December 10, 1999. It is further ordered that he take and pass the Multistate Professional Responsibility Examination one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar pursuant to Bus. & Prof. Code section 6140.7 and are payable in equal amounts prior to February 1 of calendar year 2000, 2001, 2002 and 2003.